

MINUTE ITEM

34. (REQUEST FOR PATENT, LIEU LANDS, SANTA BARBARA COUNTY, SECURITY TITLE AND INSURANCE COMPANY - GEO.-SANTA BARBARA CO.)

After consideration of Calendar Item 32 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO ISSUE A PATENT, PURSUANT TO THE AUTHORITY OF PUBLIC RESOURCES CODE SECTION 7729, IN THE NAME OF CHARLES H. CROCKER, TO THOSE LANDS IDENTIFIED AS THE SW¹₄ OF THE SW²₄, SECTION 28, T. 5 N., R. 27 W., S.B.B. & M., AND LOTS 1, 4, 7 AND 10 OF SECTION 25, T. 5 N., R. 27 W., S.B.B. & M., ALL INCLUDED WITHIN THE APPLICATION IDENTIFIED AS LOS ANGELES LOCATION 6418.

Attachment

Calendar Item 32 (2 pages)

CALENDAR ITEM

MISCELLANEOUS

32.

(REQUEST FOR PATENT, LIEU LANDS, SANTA BARBARA COUNTY, SECURITY TITLE AND INSURANCE COMPANY - W.O. 396.107.)

A request has been received from the Security Title and Insurance Company of Santa Barbara for the issuance of a patent to certain lieu lands located in Sections 28 and 25, T. 5 N., R. 27 W., S.B.B. & M., for which a certificate of purchase was issued on April 5, 1900, identified as Los Angeles Location 6418. The facts are as follows: Application was duly made by one Charles H. Crocker to purchase the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 28, and Lots 1, 4, 7 and 10 of Section 25, all in T. 5 N., R. 27 W. The lieu land selection was approved by the Federal Government and, subsequently, on September 21, 1897, Certificate of Purchase No. 13,986 was issued to the applicant upon the payment of 20 percent of the purchase price and interest at the rate of 7 percent on the unpaid balance for the remainder of 1897. On July 19, 1899, interest was paid in the amount of \$28.05, being the interest due on the balance of the purchase price for the years 1898-1899. On April 5, 1900, the balance of the purchase price in the amount of \$200.37 and interest at the rate of 7 percent on the balance for the period January 1, 1900, to April 5, 1900, was paid, and full payment was properly noted on the certificate of purchase. Subsequently it was determined by the State Surveyor General's office that interest on the unpaid balance should have been computed for the entire year of 1900, rather than a pro rata payment of interest up to April 5, 1900. Although the Surveyor General's office notified the certificate holder in 1915 of interest due, no subsequent action was taken. The issues presented are: (a) Was there a forfeiture of the land by reason of delinquent interest due for the remainder of the year 1900, or (b) Must the delinquent interest in the amount of \$10.33 be paid before the State can issue a patent as provided under Public Resources Code Section 7729?

The Attorney General's office advises that there would be no forfeiture for nonpayment of this purported delinquent interest for the reason that the applicable provisions of the Political Code in effect in 1900 contain no provisions for forfeiture, automatic or otherwise, in the event of delinquent interest. Further, if the forfeiture was not automatic, any action on behalf of the State may now be precluded by reason of the provisions of Section 315 of the Code of Civil Procedure.

As to the second point, it is arguable that this is not technically a case of the interest payment being delinquent. Under the procedures then in effect, payments on certificates of purchase, including interest payments, were made to the County Treasurer of the County wherein the land was situated. Under the Code, the County Treasurer acted as an agent of the State for purposes of collecting the amounts due on the certificates. When Mr. Crocker, the original applicant, made his final payment on April 5, 1900, it is reasonable to assume that the appropriate officer of the County Treasurer's office of Santa Barbara County calculated the interest from the first of the year up to the day of final payment of the balance of the purchase price. In other words, the appli-

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cant presumably made a good-faith attempt to comply with the requirements of the law; therefore, it is unlikely that the State could at this time assert a mistake of its agent, made approximately 59 years ago.

In view of the foregoing, the land does not appear to be in forfeit, nor does it appear reasonable to endeavor to collect the delinquent interest.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO ISSUE A PATENT, PURSUANT TO THE AUTHORITY OF PUBLIC RESOURCES CODE SECTION 7729, IN THE NAME OF CHARLES H. CROCKER, TO THOSE LANDS IDENTIFIED AS THE SW $\frac{1}{4}$ OF THE SW $\frac{1}{4}$, SECTION 28, T. 5 N., R. 27 W., S.B.B. & M., AND LOTS 1, 4, 7 AND 10 OF SECTION 25, T. 5 N., R. 27 W., S.B.B. & M., ALL INCLUDED WITHIN THE APPLICATION IDENTIFIED AS LOS ANGELES LOCATION 6418.